

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CARMELO HERRERA,	:	
	:	
Petitioner,	:	Civil No. 11-0734 (SRC)
	:	
v.	:	NOTICE and ORDER
	:	
PETER K. LAGANA,	:	
	:	
Respondent.	:	

You have filed a Petition for a writ of habeas corpus under 28 U.S.C. § 2254. This Court is required by Mason v. Meyers, 208 F.3d 414 (3d Cir. 2000), to notify you of the following consequences of filing such a Petition under the Antiterrorism and Effective Death Penalty Act ("AEDPA") and to give you an opportunity to file one all-inclusive § 2254 Petition.

1. Under the AEDPA, prisoners challenging the legality of their detention pursuant to the judgment of a State court must marshal in one § 2254 Petition all the arguments they have to collaterally attack the State judgment and, except in extremely limited circumstances, file this one all-inclusive Petition within one year of the date on which the judgment of conviction becomes final by the conclusion of direct review or the expiration of the time for seeking such review. See 28 U.S.C. § 2244(d).

2. It is not apparent to the Court whether you intend the Petition you filed to be your one all-inclusive § 2254 Petition. Therefore, you may now tell the Court how you want to proceed by

choosing one of the following options and notifying the Clerk of your choice pursuant to the terms of this Notice and Order.

- a. Have your pending § 2254 Petition ruled upon as filed;
or
- b. Withdraw your pending § 2254 Petition and file one all-inclusive § 2254 petition subject to the one-year statute of limitations.

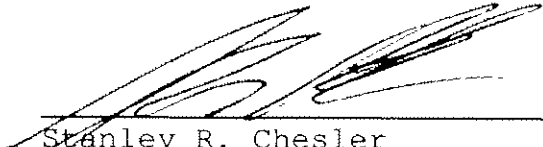
3. If you choose option (a) above, then you will lose your ability to file a second or successive petition under § 2254, absent certification by the Court of Appeals for the Third Circuit and extraordinary circumstances.

4. This Court makes no finding as to the timeliness of the Petition as filed.

IT IS therefore on this 17th day of February, 2011,

ORDERED that you have 30 days from the entry of this Notice and Order to file with the Clerk a letter or other written response signed by you advising the Court how you would like to proceed; and it is further

ORDERED that, if you do not file a signed response choosing one of the above options within 30 days of the entry of this Notice and Order, then the Court will rule on your Petition as filed.



Stanley R. Chesler
United States District Judge